

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
“Glide Path” Paper from the State Members	)	
of the Federal-State Joint Board on	)	CC Docket No. 80-286
Separations	)	

**REPLY COMMENTS**

GVNW Consulting, Inc. (GVNW) submits these reply comments in response to the Commission’s notice in the above-captioned proceeding.<sup>1</sup>

GVNW appreciates the Joint Board’s deliberate, thoughtful and cautious approach to reforming the jurisdictional separations rules. The Glide Path paper provides seven optional alternatives to consider in replacing the current separations system at the end of the five-year freeze period that is currently in place. The paper identifies the advantages, the disadvantages, and certain questions related to the alternatives.

GVNW believes the current separations system is working for rural rate of return Incumbent Local Exchange Carriers (ILECs) and that the current system should not be replaced unless a plan that works better can be identified and quantified. This should not be interpreted as opposition to modifications to the current mechanism that can be shown

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<sup>1</sup> Public Notice, DA 01-2973 (rel. Dec. 20, 2001).

to more accurately allocate costs and accomplish the existing requirements of jurisdictional separations.

Recent decisions of the Commission regarding Universal Service Funding and the separations factor freeze have given rural LECs a taste of stability in what has become an increasingly unstable telecommunications marketplace. Stability and predictability of future revenue streams is the single most important feature of telecommunications regulation that will continue to encourage infrastructure investment in rural America. A formal proceeding at this time, just a few months into the factor freeze, has the potential to increase the level of uncertainty to the point where infrastructure investment is harmed. Although we recognize that the changing marketplace must be addressed in regulatory policy, we believe it is premature to formally consider the options identified in Glide Path. Most commentors apparently share this opinion, as the level of detailed analysis provided in the initial comments was limited. Based on the comments received in this proceeding, the commenting parties have not sufficiently addressed the disadvantages and questions associated with options 2 through 7 to justify their serious consideration at this time.

GVNW supports the Joint Board's initiative in attempting to evaluate a variety of options, however, how to proceed is difficult given current rules, legal requirements, recent decisions, and the cost of gathering and analyzing the data necessary to understand the potential impacts on LECs and their customers.

As stated in Glide Path, some of the alternatives could require legislative action. Until the specific legislative changes have been identified, we cannot evaluate their potential impact on the rural rate-of-return ILECs that make up the majority of our client

base. Our clients will also find it difficult to justify the cost of extensive analysis of alternatives that are not even possible without changes to existing law. Until enabling legislation becomes law, we encourage the Commission to refrain from formal consideration of regulatory changes that could not be implemented under existing law. While we currently believe the status quo or extending the freeze will be in the best interest of our client companies at the end of the freeze period, we stand ready to evaluate other alternatives that are sufficiently defined and have a potential for benefiting the customers of our client companies.

### **Specific Questions**

At the en banc hearing on February 13, 2002 the Joint Board members asked the panelists specific questions to be answered later. Following are the questions and our response.

***Question 1.*** (Commissioner Smith) *My first question is especially directed at parties who believe that it is premature to be discussing the Glide Path or even the extension of the freeze. Are companies continuing to gather data or performing calculations necessary to update all of the "frozen" factors -- both categorization and allocation factors? If not, how would the long- term impact of the freeze or a decision to extend it be quantified by the Joint Board or the Commission? What I heard informally is that they are not. Then what?*

**Answer 1.** GVNW Consulting has recommended that its clients continue to gather traffic data even though the freeze has eliminated the need to develop annual traffic factors.

This recommendation was made in response to the discussion in the Freeze order regarding continued evaluation of the impact of the separations freeze and Internet traffic. Since accumulation of traffic data does have a cost associated with it and it is now optional, a small percentage of our clients have elected to discontinue the accumulation of data. We expect approximately 95% of our clients to accumulate traffic data this year. It is our opinion that a sufficient number of rural LECs will continue to accumulate data in order to provide a representative sample throughout the five year freeze period. In addition to the development of interstate traffic factors, many of the smaller companies have other uses for the traffic information and therefore they continue to collect the data. Some of the requirements include use in administering state programs, and use by management in the provision of products and services.

Regarding the categorization issue, only a very small percentage of rural LECs choose to freeze their categorization because of the risks associated with this option. Consequently the companies will continue to update their categorization throughout the five-year freeze period.

***Question 2.*** *If a company's study area has a mix of exchanges with effective competition and without effective competition, how would the company subdivide the study area and remove costs for the competitive exchanges? It is likely part 64 is not adequate to accomplish this. Paul Hartman also questioned the future efficacy of part 64.*

**Answer 2.** This is a very difficult question, not unlike the disaggregation situation related to the Universal Support Program. In order to respond to this question, it is necessary to state the assumptions we utilized in responding. We assume the question presumes that those exchanges which are competitive no longer have a need for regulation of any type, therefore costs must be separated so the remaining, non-competitive exchanges can be fairly regulated. We will respond given the above assumption although GVNW does not necessarily agree that regulation will no longer be necessary in selected exchanges of an incumbent LEC.

Part 64 of the Commission's Rules provides the framework for the allocation of costs. Application of these rules is sufficient for the removal of costs as described in the question and assumptions. However, in the future, as competitive choices expand, it may be preferable to establish more specific allocation rules for all LECs to utilize in order to ensure more consistency.

There are a large number of ways these costs can be removed, ranging from very simple (e.g., average cost per line) to very complex (e.g., census block group cost analysis). It is important to note that very few carriers, if any, currently maintain cost records at an exchange level of detail that would be sufficient to subdivide a study area and isolate the cost in the "competitive" exchange(s). With each possible approach, there is a trade off between the cost of the proposed method and the effectiveness of such an approach in removing the costs in a competitively neutral fashion.

Competitive neutrality is relevant for this issue, since the Commission's current rules provide that the amount of portable federal universal service support for competitive eligible telecommunications carriers is based on the cost structure of the ILEC. A rural

ILEC's federal universal service funding is based on the average costs throughout the rural LEC service territory, regardless of whether competitors are active or not. Any inequities or misallocations in such proposed rules could be detrimental to both the incumbent carrier as well as the competitive provider. At some future juncture, this type of a result could serve to reduce the incentive to deploy rural infrastructure, while at the same time reducing the competitive choices available to customers.

Competition, by its very nature, does not necessarily fall neatly within the existing ILEC's exchange boundaries. In fact, competition in almost all situations will be in the more urban areas with little or no competitive choice in rural areas of an exchange. Competitors will focus on gaining the individual customers that, in the perception of the competitive entrant, offer the best opportunity to maximize revenue. The prerequisite of defining what constitutes a 'competitive exchange' may also prove to be a vexing problem, due to the wide range of actual circumstances that rural carriers face today.

The many complications to existing cost allocation procedures that will arise as competition becomes more widespread seems to dictate that any rules proposed for this purpose would need to provide some degree of flexibility, or at least a range of options. An excellent reference that illustrates the vast array of operating circumstances faced by rural carriers is detailed in the Rural Task Force's White Paper #2, entitled The Rural Difference. In simplest terms, there are multiple approaches to providing access to the public switched network.

In our opinion, if the Commission feels cost allocation procedures need to be evaluated, such an evaluation is more appropriately undertaken in a separate proceeding.

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Glide Path Reply Comments  
GVNW Consulting, Inc.

Respectfully Submitted,  
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By: electronically filed

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